

App. Ser. No.: 09/440,260
Atty. Doc. No.: D02320

REMARKS

In the Office Action mailed on January 9, 2006 the Examiner rejected claims 1-3, 7-13, 16-24, 26 and 27 under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,574,495 to Caporizzo in view of Corrigan; rejected claims 4, 5 and 14 under 35 U.S.C. 103(a) as being unpatentable over Caporizzo and Corrigan in view of U.S. Patent No. 6,463,588 to Jenkins et al. and U.S. Patent No. 6,425,132 to Chappell; rejected claims 6 and 15 under 35 U.S.C. 103(a) as being unpatentable over Caporizzo and Corrigan in view of U.S. Patent No. 5,563,833 to Cheng; rejected claims 25, 28-30 and 34-36 under 35 U.S.C. 103(a) as being unpatentable over Caporizzo and Corrigan in view of an article by Henderson; rejected claims 31 and 32 under 35 U.S.C. 103(a) as being unpatentable over Caporizzo, Corrigan and Henderson in view of Jenkins and Chappell; rejected claim 33 under 35 U.S.C. 103(a) as being unpatentable over Caporizzo, Corrigan and Henderson in view of Cheng; rejected claim 41 under 35 U.S.C. 103(a) as being unpatentable over Corrigan in view of Caporizzo; and rejected claims 42 and 43 under 35 U.S.C. 103(a) as being unpatentable over Corrigan.

In rejecting independent claims 1, 11 and 20, the Examiner asserts "Corrigan teaches ... transmit[ting] a message without a request message being first sent from the system controller." See page 5 of January 9, 2006 Office Action. In the Response to Arguments, the Examiner also asserts the "control unit [110] is merely transmitting information and does not initiate the process. See page 2 of January 9, 2006 Office Action. Both of these assertions are incorrect. Corrigan teaches that the control unit 110 FIRST transmits operation parameters at step 1010 to the subscriber units in column 7,

App. Ser. No.: 09/440,260
Atty. Doc. No.: D02320

lines 7-9. Only AFTER the subscriber unit 130 has the operation parameters can it then register on the system at step 1040. See column 7, lines 15-16 and Figure 11.

This conclusion is supported by Corrigan's own words: "With the acquired system information [from control unit 110], the subscriber unit [130] can properly register on the system at step 1040." See column 7, lines 15-16. To put it another way, without the control unit 110 first transmitting system information, the subscriber unit 130 could not register on the system.

There is no motivation to combine the systems and methods of Caporizzo and Corrigan. As noted earlier, Caporizzo addresses bit error rate data. Corrigan describes an initialization process for a subscriber unit. These patents are addressing different problems and would not be combinable by one of ordinary skill in the art.

The Examiner's proposed combination of Caporizzo and Corrigan would also destroy the Caporizzo reference. Applicant believes the Examiner's proposed combination involves replacing Caporizzo's bit error rate (BER) message with Corrigan's message. If this is indeed what the Examiner proposes, this combination destroys the purpose of Caporizzo, which is to detect and report bit error rates. See column 1, line 63 – column 2, line 5.

The Examiner asserts in his remarks that Caporizzo and Corrigan are analogous. While both are applied in the cable television network, they are both applied to different issues in a very complex field. Caporizzo to reporting bit error rate data and Corrigan to set-top box management. Since the main focus of Caporizzo is to report bit error rates, why would one of ordinary skill look to Corrigan to supposedly improve the ability of

App. Ser. No.: 09/440,260

Atty. Doc. No.: D02320

Caporizzo to report bit error rate data? Corrigan can offer no insight or improvement to Caporizzo's bit error rate reporting scheme.

In rejecting claim 25, the Examiner asserts that it would have been obvious to modify the teachings of Caporizzo to include purchasing the set-top terminal at a retail outlet. Applicant respectfully disagrees. As pointed out earlier, Caporizzo is focused on collecting bit error rate data. These errors can come from a plurality of sources as outlined by Caporizzo in column 3, lines 13-32. How the set-top terminal got into the network (i.e., via a purchase from a retail outlet) is immaterial as to how the terminal is performing so as to reduce bit error rates.

Any claims not specifically mentioned above are allowable due to their dependency on allowable base claim.

App. Ser. No.: 09/440,260

Atty. Doc. No.: D02320

CONCLUSION

No fees are due for this response. However, the Office is authorized to charge any additional fees or underpayments of fees (including fees for petitions for extensions of time) under 37 C.F.R. 1.16 and 1.17 to account number 502117. Any overpayments should be credited to the same account.

Applicant respectfully requests reconsideration of the present application, withdrawal of the rejections made in the last Office Action and the issuance of a Notice of Allowance. The Applicant's representative can be reached at the below telephone number if the Examiner has any questions.

Respectfully submitted,

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